standard: There is nothing wrong with it. It is just perfect as it is.

Well, I don't have to tell our Democratic friends about the unintended consequences of this partisan exercise. ObamaCare was passed without a single Republican vote so the problems that have developed from it are problems that were created by our Democratic colleagues. Having said that, we hope they will work with us to come up with an alternative which we believe would be an improvement on the status quo, to make health care more available, at a price people can afford, with choices that would be theirs, not a mandate out of Washington, DC.

CABINET NOMINATIONS

Mr. CORNYN. Mr. President, let me talk just a minute about the nominations process. In 2009, when President Obama was sworn into office, there were seven Cabinet members sworn in on his first day in office. That is a demonstration of the good faith and civility that ordinarily extends in the peaceful transition of power from one President to another. That doesn't mean we were excited on this side of the aisle about the fact that President Obama won as opposed to our preferred candidate, but we believed it was our responsibility to carry on this tradition of peaceful transition of power. The President, having won the election, was entitled to surround himself with his team, subject to the vetting and the confirmation process and the process known as advise and consent.

I believe we need to see some cooperation from our colleagues across the aisle, including the confirmation of the next Attorney General of the United States, Senator JEFF SESSIONS. Our Senate colleagues know JEFF SESSIONS. They have worked alongside him. They don't need to read his resume, they don't need to know more about his record because they know his heart. They know JEFF to be an honorable and decent man who believes fervently in the rule of law and who will drain that swamp known as the Department of Justice, which has become an outpost of the political operation in the White House, and restore it to its rightful reputation as a Department of Justice that believes in equal justice under the law and doesn't play politics.

I would also state that our colleagues across the aisle ought to work with us to confirm the next Secretary of State, Rex Tillerson. Mr. Tillerson, I believe, is an inspired choice for Secretary of State. Some have wanted to say that the relationships he has developed around the world working on behalf of the shareholders of ExxonMobil are a liability. I actually view it as a spring. When you are talking to somebody, you are less likely to get involved in a fight or get involved in a misunderstanding that might lead to some unnecessary conflict. I don't have any doubts about his willingness and commitment to work on behalf of the United States and all of our people, just like he has worked on behalf of the shareholders of the business he has run for all these years.

Finally, let me just say a word about the Secretary of Defense nominee, Gen. James Mattis. We overwhelmingly passed a waiver that would reduce the number of years a uniformed military officer had to be out of the military before they would be eligible for Secretary of Defense. I think the reason it passed by such a wide bipartisan majority is people realize there aren't many men or women in the world like Gen. James Mattis with the qualities that he brings to this important job. He is a real warrior statesman. Someone who has walked the walk and seen live combat during a 40-year career in the U.S. Marine Corps.

During his hearing before the Senate Armed Services Committee last week, all of us had a chance, along with our colleagues on the Armed Services Committee, to ask him how he would handle a host of foreign policy and national security issues. During the question-and-answer period, he mentioned the importance of preserving our country's military power, but he also noted that our Nation has historically held the power of inspiration by our example, inspiring others around the world with our democracy. That extends well beyond our uniformed military and the threat of military might. That is something that should be cultivated well beyond our military preparedness. The point is, with General Mattis, we have a strategic thinker who sees the big picture, and I am confident he will lead our military in a way that advances our interests around the world, and what I am particularly looking for are leaders in the Trump administration who will restore America's leadership role around the world wherever we go and wherever we look because I believe, in my heart of hearts, that one reason the world has become more dangerous and less stable is because many people around the world who are adversaries have viewed the Obama administration as retreating from America's traditional leadership role in the world, and believe me, there are plenty of countries—plenty of bad actors—that are willing to take advantage of that void when America retreats and doesn't demonstrate its historic leadership role.

I hope all of our colleagues will join us in supporting not only General Mattis's confirmation but Secretary of State Tillerson's and all of the others, including the Attorney General nominee, JEFF SESSIONS, and all of the other nominees of President-Elect Trump. They have every right to a thorough vetting. They have every right to ask hard questions to get information to help them vet these nominees. That is our job. In the end, they should not delay for just delay's sake, which unfortunately some of them have threatened to do. That will not help anybody. It will not help this new administration, it will not make America a safer place, and it will make us more vulnerable to those around the world who want to disrupt the peaceful transition of power from one Presidency to the next.

Mr. President, I thank my colleague from Rhode Island for his courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, the senior Senator from West Virginia has a very short time clock and has asked me to yield 2 minutes to him before I begin my remarks.

I ask unanimous consent that that take place and that then I be recognized at the conclusion of his remarks to speak in morning business for the duration of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I thank my most generous friend from Rhode Island, Senator WHITEHOUSE, for allowing me to speak for a few minutes.

(The remarks of Mr. MANCHIN pertaining to the introduction of S. 175 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MANCHIN. Again, I thank the Senator.

Mr. WHITEHOUSE. My pleasure.

The PRESIDING OFFICER. The Senator from Rhode Island.

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, in my ''Time to Wake Up'' climate speech—this is No. 154—I sometimes feel as if I am out here banging hopelessly against a tightly locked, barred, and soundproofed door. I make them anyway because, at a minimum, I want history to know what happened here when people look back and ask what the hell went wrong with American democracy. But I do admit that it can sometimes be discouraging.

However, last week something important happened. A public servant won a victory against a massive special interest. A court in Massachusetts allowed the attorney general of that Commonwealth to obtain files and records from the ExxonMobil corporation about its climate denial enterprise.

That is great news, and it is an important event. There is virtually universal scientific consensus—and even alarm—about climate and oceanic changes caused by burning the fossil fuel industry's products. In the face of that concern, the fossil fuel industry has gone to the mattresses to defend its business model. It is defending what the International Monetary Fund has described as a $700 billion—billion with a ''b''—annual subsidy just in the United States.

To defend a prize of that magnitude, the industry has set up an array of front groups to obscure its hand and to

propagate fake science designed to raise doubts about the real thing. With that fake science, they dupe the public and provide talking points for their political operatives. The front groups are a tentacled Hydra named after everyone from Cato to Madison, Jefferson, and Franklin, to George C. Marshall. The resemblances between this fossil fuel climate denial operation and the tobacco fraud scheme are profound, and these resemblances are noted often, including by the lawyer who won the tobacco case. Yes, the Department of Justice won that case.

At the same time, the fossil fuel industry has taken advantage of the political weaponry handed to them by five Republican appointees on the Supreme Court. This industry has used the unprecedented political power bestowed on mighty special interests by the Citizens United decision to extirpate—root out—any Republican support for climate action. When I got here, there was plenty of Republican support for climate action, but after Citizens United that changed. They have seized that party like a hostile political takeover and turned the Republican Party into the fossil fuel industry's political arm. It turns out that you can do this on the cheap, compared to losing a subsidy of $700 billion a year.

This whole scheme reeks of mischief and self-interest, but in political forums the industry is such a powerful behemoth that it can block proper hearings, spout calculated misinformation, cloud up the truth, lobby to its heart's content, refuse to answer questions, pile up the spin doctors and front groups, buy and rent politicians, and threaten to end careers of anyone who crosses them—and they do. They made an example of Representative Bob Inglis and bragged of the political peril—their words—that would result to those who crossed them. That is how they play in the political branches. Truth doesn't matter to them. Truth is their adversary.

But you cannot play that way in court. That is why last week's victory was important. Court is different. In court you have to speak truthfully. Your lawyers can be sanctioned for lying in court. In court, your testimony is under oath, and you can be cross-examined. In court, evidence can be demanded and must be produced. In court, you cannot buy a judge's good will or bully a jury into compliance. Tampering with the jury is a crime. Judges cannot meet secretly with one side. No money can change hands, and biased judges must be recused.

Sir William Blackstone was the best-known jurist in England and America at the time of the Revolution. Trial by jury, he said, ''preserves in the hands of the people that share which they ought to have in the administration of public justice, and prevents the encroachments of the more powerful and wealthy citizens.''

No wonder powerful and wealthy ExxonMobil wants no part of that. This industry has gotten used to saying things with no accountability, dodging the truth, hiding the evidence, and using the massive weight of their political might to see to it that Congress has just the right bias wherever fossil fuel interests are a concern.

This Massachusetts ruling is a chink of light—and a welcome one—as darkness falls over an executive administration stuffed with nominees from the climate denial fringe, wrapped tight in the political tentacles of fossil fuel interests.

It makes the fossil fuel folks crazy to be called into court and to have to stand annoyingly equal before the law when they are used to being the big behemoth, able to tell everyone what to do or pay them or threaten them to do what industry wants. That is why they launched legislative subpoenas at attorneys general and what even Texas newspapers have called out as unseemly abuse of government power.

That is why they rush to the oil patch for judges who will interfere in investigations by attorneys general, even suggesting that attorneys general should not pursue cases against corporations whom they believe are responsible for misconduct because believing that is prejudicial.

Think of that. That is why the industry PR machine creates and propagates magical theories about the industry's First Amendment rights, when it is black letter law—admitted even by Senator SESSIONS in his Judiciary Committee hearing—that the First Amendment ends where fraud begins. Fraudulent speech, including fraudulent corporate speech, is not protected by the First Amendment. It is not now, and it never has been.

To clarify this point, I ask unanimous consent to have printed in the RECORD a June 2016 Washington Post op-ed by Yale Law School dean Robert Post titled ''Exxon-Mobil is abusing the first amendment.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 2016]

EXXON-MOBIL IS ABUSING THE FIRST AMENDMENT

(By Robert Post)

Global warming is perhaps the single most significant threat facing the future of humanity on this planet. It is likely to wreak havoc on the economy, including, most especially, on the stocks of companies that sell hydrocarbon energy products. If large oil companies have deliberately misinformed investors about their knowledge of global warming, they may have committed serious commercial fraud.

A potentially analogous instance of fraud occurred when tobacco companies were found to have deliberately misled their customers about the dangers of smoking. The safety of nicotine was at the time fiercely debated, just as the threat of global warming is now vigorously contested. Because tobacco companies were found to have known about the risks of smoking, even as they sought to convince their customers otherwise, they were held liable for fraud. Despite the efforts of tobacco companies to invoke First Amendment protections for their contributions to public debate, the Court of Appeals for the D.C. Circuit found: ''Of course it is well settled that the First Amendment does not protect fraud.''

The point is a simple one. If large corporations were free to mislead deliberately the consuming public, we would live in a jungle rather than in an orderly and stable market.

ExxonMobil and its supporters are now eliding the essential difference between fraud and public debate. Raising the revered flag of the First Amendment, they loudly object to investigations recently announced by attorneys general of several states into whether ExxonMobil has publicly misrepresented what it knew about global warming.

The National Review has accused the attorneys general of ''trampling the First Amendment.'' Post columnist George F. Will has written that the investigations illustrate the ''authoritarianism'' implicit in progressivism, which seeks ''to criminalize debate about science.'' And Hans A. von Spakovsky, speaking for the Heritage Foundation, compared the attorneys general to the Spanish Inquisition.

Despite their vitriol, these denunciations are wide of the mark. If your pharmacist sells you patent medicine on the basis of his ''scientific theory'' that it will cure your cancer, the government does not act like the Spanish Inquisition when it holds the pharmacist accountable for fraud.

The obvious point, which remarkably bears repeating, is that there are circumstances when scientific theories must remain open and subject to challenge, and there are circumstances when the government must act to protect the integrity of the market, even if it requires determining the truth or falsity of those theories. Public debate must be protected, but fraud must also be suppressed. Fraud is especially egregious because it is committed when a seller does not himself believe the hokum he foists on an unwitting public.

One would think conservative intellectuals would be the first to recognize the necessity of prohibiting fraud so as to ensure the integrity of otherwise free markets. Prohibitions on fraud go back to Roman times; no sane market could exist without them.

It may be that after investigation the attorneys general do not find evidence that ExxonMobil has committed fraud. I do not prejudge the question. The investigation is now entering its discovery phase, which means it is gathering evidence to determine whether fraud has actually been committed.

Nevertheless, ExxonMobil and its defenders are already objecting to the subpoena by the attorneys general, on the grounds that it ''amounts to an impermissible content-based restriction on speech'' because its effect is to ''deter ExxonMobil from participating in the public debate over climate change now and in the future.'' It is hard to exaggerate the brazen audacity of this argument.

If ExxonMobil has committed fraud, its speech would not merit First Amendment protection. But the company nevertheless invokes the First Amendment to suppress a subpoena designed to produce the information necessary to determine whether ExxonMobil has committed fraud. It thus seeks to foreclose the very process by which our legal system acquires the evidence necessary to determine whether fraud has been committed. In effect, the company seeks to use the First Amendment to prevent any informed lawsuit for fraud.

But if the First Amendment does not prevent lawsuits for fraud, it does not prevent subpoenas designed to provide evidence necessary to establish fraud. That is why when a libel plaintiff sought to inquire into the editorial processes of CBS News and CBS

raised First Amendment objections analogous to those of ExxonMobil, the Supreme Court in the 1979 case Herbert v. Lando unequivocally held that the Constitution does not preclude ordinary discovery of information relevant to a lawsuit, even with respect to a defendant news organization.

The attorneys general are not private plaintiffs. They represent governments, and the Supreme Court has always and rightfully been extremely reluctant to question the good faith of prosecutors when they seek to acquire information necessary to pursue their official obligations. If every prosecutorial request for information could be transformed into a constitutional attack on a defendant's point of view, law enforcement in this country would grind to a halt. Imagine the consequences in prosecutions against terrorists, who explicitly seek to advance a political ideology.

It is grossly irresponsible to invoke the First Amendment in such contexts. But we are witnessing an increasing tendency to use the First Amendment to unravel ordinary business regulations. This is heartbreaking at a time when we need a strong First Amendment for more important democratic purposes than using a constitutional noose to strangle basic economic regulation.

Mr. WHITEHOUSE. Mr. President, it makes this industry crazy to be in court and to have to tell the truth, so they will fight desperately on. The $700 billion a year in subsidies makes it profitable to ''lawyer up'' by the boatload for this fight and to litigate to their damndest. So this is not over, but this may be the moment when the truth finally found a path around the ramparts of our well-kept congressional indifference and began to find its way into the daylight.

That is one of the reasons the Founding Fathers gave us independent courts and juries. ''Representative government and trial by jury are the heart and lungs of liberty,'' wrote John Adams. Independent courts and trial by jury were a big deal to the founding generation. The Founding Fathers had a keen sense of history and of politics and of the mischief of conniving men. They were deeply concerned about corruption—corruption of the body politic by interests and factions.

They knew the Bible and had read Isaiah's warning of how ''the faithful city has become a whore,'' with ''princes'' that are ''companions of thieves.'' They knew about abusive power. They could envision an interest become so powerful as to overwhelm the executive and legislative branches of government and bend those branches to its will. They could envision a special interest so powerful that it could buy its own presses and confuse or beguile the public with propaganda and nonsense. They could envision special interests so powerful as to abuse and distort the very democracy they were building.

So there stand the courts and there stands the jury, the places in our system of government where money has no sway and where evidence, testimony, and truth rule the day.

God bless America.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. JOHNSON). Morning business is closed.

GAO ACCESS AND OVERSIGHT ACT OF 2017

The PRESIDING OFFICER. Under the previous order, the Committee on Homeland Security and Governmental Affairs is discharged from the bill, and the Senate will proceed to consideration of H.R. 72, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 72) to ensure the Government Accountability Office has adequate access to information.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate, equally divided in the usual form.

The Senator from Nebraska.

Mr. SASSE. Mr. President, in just a few minutes we are going to vote on a bill that probably will not get a lot of attention in Washington. No cable news shows are going to give it breaking alerts, headlines. Roundtables of pundits will not be gathering to scream about it, and partisans are not going to score the bill.

It is a straightforward bill with a straightforward purpose—to ensure that the Government Accountability Office can tap into the data at the Department of Health and Human Services. But in this case, looks can be deceiving. The GAO Oversight and Access Act of 2017, which I introduced together with Senator TESTER 1 year ago, represents a significant victory for taxpayers.

Its impact won't be felt tomorrow in Washington, but over many years to come, taxpayers from Nebraska and across the country will see how passing this legislation played a role in forcing Congress to address some of the biggest problems that our government faces. Let's step back for a moment and understand why. What is the problem?

The Federal Government has a very serious budget problem. This isn't news to anyone who has been paying attention. It is not even something about which Democrats and Republicans disagree. We may not often agree on solutions, but we can and should agree to clearly identify the problems that the government and, therefore, our people face. Some of the problems are very big—so big, in fact, that it is hard to even wrap our minds around how large the numbers are, like the fact that last year this government spent $587 billion more than all it collected in taxes. Consider how big $587 billion is.

National defense is the first and fundamental reason that the Federal Government exists. Last year we spent $595 billion on all of our national security or in the entire defense budget. When Ronald Reagan was sworn into office, the entire Federal budget was $590 billion. Now that is what we are borrowing annually.

Or look at it this way. Historically, the amount we borrowed last year was bigger than every Federal budget for the first 160 years of the Nation—combined. That is, if you added up every dollar that the government spent from 1789 through 1950, it would still be less than the $587 billion that we overspent and therefore borrowed just last year. The former number got us through the Civil War, two world wars, and the Great Depression.

Some of our problems are actually relatively small, but they ultimately add up to something big. Just look at some of the stuff Senator FLAKE dug up in this year's ''Wastebook'' report or what Senator LANKFORD put in his report this year entitled ''Federal Fumbles.'' The Commerce Department gave $1.7 million to the National Comedy Museum to resurrect dead comedians using holograms. Also, $70,000 of our taxpayers' money went to a Minnesota theater to put together an opera of Steven King's ''The Shining.'' And $17,000 was spent for people to wear fat suits to learn sensitivity to those with weight problems. These things are tiny individually, but when you put them together, they add up to a lot of our budget.

Expert after expert testifies before our committees that this is unsustainable. We all know this cannot go on forever. At some point, the government's borrowing and overspending ways will catch up with us and we will have a Greek-style debt crisis.

Congress needs to begin acting now to fix the government's structural problems—chiefly in the entitlement programs, for those are the spending categories whose trajectories dwarf all others.

All of this gets to the central problem that the bill we are considering this afternoon was designed to solve—namely, that Congress is flying blind when it comes to overseeing huge portions of our budget, and therefore we don't have the information we need to fix these problems.

The portion in particular I have in mind is the means-tested entitlement programs and the tax credits program. These include Medicaid; the earned-income tax credit, or EITC; the Supplemental Security Income—or disability—Program; food stamps; and Pell grants. All of these were designed to assist our low-income friends and neighbors. All of them together absorb a significant part of today's Federal budget.

As of right now, $1 in every $6 we spend is on only 10 means-tested programs and tax credits like the ones just listed, according to the CBO, but because of an anomaly in the law, Congress has been blocked from getting the best information that is available about how these programs are actually working or not working. What do I mean by that? For years, the Government Accountability Office—the GAO, the agency that is supposed to be the taxpayers' watchdog because it is supposed to hunt down waste and expose